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1638

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Attorney Docket No. 59150-8031.US



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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: OTSUKI *ET AL.*

APPLICATION No.: 10/508,810

FILED: September 22, 2004

FOR: FUNCTIONAL PLANT, PROMOTER TO
BE USED FOR PRODUCING THE
FUNCTIONAL PLANT AND METHOD OF
USING THE SAME

EXAMINER: Worley, Cathy Kingdon

ART UNIT: 1638

CONF. No: 9688

**Information Disclosure Statement After First Office Action but Before
Final Action or Notice of Allowance—37 CFR 1.97(c)**

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

1. Timing of Submission

This information disclosure is being filed **after** three months of the filing date of this application or **after** the mailing date of the first office action on the merits, whichever occurred last, but **before** the mailing date of either a final action under 37 CFR 1.113 or a Notice of Allowance under 37 CFR 1.311, whichever occurs first. The references listed on the enclosed Form PTO-1449 may be material to the examination of this application; the Examiner is requested to make them of record in the application.

2. Cited Information

☒ Copies of references 1-9 are enclosed.

3. Effect of Information Disclosure Statement (37 C.F.R. § 1.97(h))

This Information Disclosure Statement is not to be construed as a representation that: (i) a search has been made; (ii) additional information material to the examination of this application does not exist; (iii) the information, protocols, results and the like reported by third parties are accurate or enabling; or (iv) the cited information is, or is considered to be, material to patentability. In addition, applicant does not admit that any enclosed item of information constitutes prior art to the subject invention and specifically reserves the right to demonstrate that any such reference is not prior art.

4. Fee Payment

- ☒ Applicant submits that no fee is due in light of the following certification under 37 C.F.R. § 1.97(e) (check only one):
- ☒ In accordance with 37 C.F.R. § 1.97(e)(1), the undersigned hereby states that each item of information submitted herewith was cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this statement;
- ☒ However, should the Commissioner determine that fees are due in order for this Information Disclosure Statement to be considered, the Commissioner is hereby authorized to charge such fees to Deposit Account No. 50-2207.

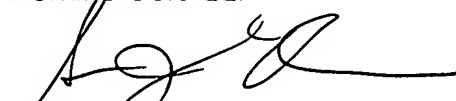
5. Patent Term Adjustment (37 C.F.R. § 1.704(d))

- ☒ The undersigned states that each item of information submitted herewith was cited in a communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in 37 C.F.R. § 1.56(c) more than thirty days prior to the filing of this statement. 37 C.F.R. § 1.704(d).

Date:

29 August 2007

Respectfully submitted,
Perkins Coie LLP



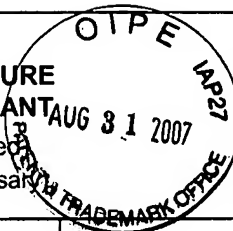
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INFORMATION DISCLOSURE STATEMENT BY APPLICANT

Form PTO-1449 (Modified)
(Use several sheets if necessary)



COMPLETE IF KNOWN

Application Number	10/508,810
Confirmation Number	9688
Filing Date	September 22, 2004
First Named Inventor	Otsuki, et al.
Group Art Unit	1638
Examiner Name	Worley, Cathy Kingdon
Attorney Docket No.	59150-8031

Sheet 1 of 3

U.S. PATENT DOCUMENTS

Examiner Initials*	Cite No.	U.S. Patent or Application		Name of Patentee or Inventor of Cited Document	Date of Publication or Filing Date of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		NUMBER	Kind Code			

FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No.	Foreign Patent or Application			Name of Patentee or Applicant of Cited Document	Date of Publication or Filing Date of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T
		Office	NUMBER	Kind Code (if known)				

OTHER PRIOR ART-NON PATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No.	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume issue number(s), publisher, city and/or country where published.
	1.	Foster et al., <i>Plant Molecular Biology</i> , 41:45-55 (1999).
	2.	Harmer et al., <i>Science</i> , 290:2110-2113 (2000).
	3.	Kelemen et al., <i>Transgenic Research</i> , 11:69-72 (2002).
	4.	Maleck et al., <i>Nature Genetics</i> , 26:403-410 (2000).
	5.	McElroy et al., <i>The Plant Cell</i> , 2:163-171 (1990).
	6.	Noury et al., <i>Plant Molecular Biology</i> , 43:537-544 (2000).
	7.	Rao et al., <i>The Plant Journal</i> , 15(4):469-477 (1998).
	8.	Seki et al., <i>The Plant Cell</i> , 13:61-72 (2001).
	9.	Wu et al., <i>The Plant Journal</i> , 22(1):19-27 (2000).

EXAMINER

DATE CONSIDERED

*EXAMINER: Initial if reference considered, whether or not criteria is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to application(s).